

Message Text

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NSC-10 PA-03 RSC-01 PRS-01 SS-14 USIA-12 T-03 OMB-01

EB-11 COME-00 TRSE-00 INRE-00 ACDA-19 GAC-01 MBFR-03

SAJ-01 EURE-00 RSR-01 /130 W
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TO SECSTATE WASHDC PRIORITY 9810

INFO DOD WASHDC PRIORITY

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C O N F I D E N T I A L SECTION 01 OF 04 LONDON 03258

E. O. 11652: XGDS-1

TAGS: MARR UK

SUBJECT: US/ UK COST- SHARING ARRANGEMENT

FOLLOWING IS TEXT OF REVISED BRITISH DRAFT OF COST-
SHARING ARRANGEMENT, DATED MARCH 16, 1973:

QUOTE: I HAVE THE HONOR TO REFER TO DISCUSSIONS

BETWEEN REPRESENTATIVES OF THE UNITED STATES GOVERN-
MENT AND HER MAJESTY' S GOVERNMENT WITH REGARD TO NEW
ARRANGEMENTS CONCERNING THE FACILITIES AVAILABLE
TO THE UNITED STATES FORCES IN THE UNITED KINGDOM. IT
IS THE UNDERSTANDING OF OUR TWO GOVERNMENTS THAT THESE
NEW ARRANGEMENTS SHOULD COVER ALL ELEMENTS OF THE US
FORCES AND, RECOGNIZING THAT THE FACILITIES UTILIZED BY
THE US FORCES IN THE UNITED KINGDOM CONSTITUTE AN
IMPORTANT FACTOR IN THE COMMON DEFENSE EFFORT OF OUR
TWO COUNTRIES, THE NEW ARRANGEMENTS SHOULD CARRY FORWARD
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THE PRINCIPLE OF CO- OPERATION AND PARTNERSHIP BETWEEN THE UNITED KINGDOM AND THE UNITED STATES. ACCORDINGLY, THE UNITED STATES GOVERNMENT HAS NOW ASKED ME TO PROPOSE THE FOLLOWING MEMORANDUM:

"1. DEFINITIONS. FOR THE PURPOSE OF THIS MEMORANDUM: (1) " DEPARTMENTAL EXPENSES" MEANS ALL OVERHEAD COSTS INCURRED BY HER MAJESTY' S GOVERNMENT IN THE PLANNING, CONTRACTING, SUPERVISING AND GENERAL EXECUTION OF WORKS SERVICES UNDERTAKEN BY HER MAJESTY' S GOVERNMENT AT THE REQUEST OF THE US FORCES:

(2) " LAND" INCLUDES ANY STRUCTURES AND INSTALLATIONS THEREON, RIGHTS OF WAY AND OTHER EASEMENTS AND APPURTENANT RIGHTS;

(3) " UNITED KINGDOM" MEANS, EXCEPT AS OTHERWISE AGREED, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

(4) " US FORCES" MEANS THE LAND, SEA, AND AIR ARMED SERVICES OF THE UNITED STATES, INCLUDING THE COAST GUARD.

2. LAND

(L) WHERE IT IS AGREED THAT HER MAJESTY' S GOVERNMENT WILL MAKE AVAILABLE FOR THE USE OF US FORCES

(A) LAND WHICH IS SURPLUS TO THE NEEDS OF HER MAJESTY' S GOVERNMENT; OR

(B) LAND REQUIRED BY THE US FORCES FOR DEFENSE PURPOSES WHICH DOES NOT BELONG TO HER MAJESTY' S GOVERNMENT BUT IS IN PROXIMITY, THOUGH NOT NECESSARILY CONTIGUOUS, TO LAND MADE AVAILABLE UNDER SUB- PARAGRAPH (A) ABOVE,

THE COST OF MAKING SUCH LAND AVAILABLE WILL BE BORNE BY HER MAJESTY' S GOVERNMENT. SUCH LAND WHICH HAD BEEN MADE AVAILABLE FREE OF CHARGE TO THE US FORCES ON THE EFFECTIVE DATE OF THIS MEMORANDUM WILL CONTINUE TO BE SO AVAILABLE.

(2) WHERE IT IS AGREED THAT HER MAJESTY' S GOVERNMENT WILL MAKE AVAILABLE LAND WHICH IS NOT SURPLUS TO THE REQUIREMENTS OF HER MAJESTY' S GOVERNMENT, HER MAJESTY' S GOVERNMENT WILL BEAR THE EXPENSES (INCLUDING TRANSPORTATION AND OTHER COSTS) OF MAKING SUCH LAND AVAILABLE, SUBJECT TO A MAXIMUM OF 100,000 POUNDS IN ANY ONE UNITED KINGDOM FINANCIAL YEAR, AND PRO RATA IF THE ARRANGEMENTS RECORDED IN THIS MEMORANDUM COME
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INTO EFFECT OR ARE TERMINATED OTHERWISE THAN AT THE

START OR END OF A FINANCIAL YEAR, ON THE UNDERSTANDING THAT THE UNITED STATES GOVERNMENT WILL REFUND TO HER MAJESTY'S GOVERNMENT ANY COSTS IN EXCESS OF SUCH AMOUNT.

(3) WHERE IT IS AGREED THAT HER MAJESTY'S GOVERNMENT WILL MAKE AVAILABLE TO THE US FORCES LAND REQUIRED BY THE US FORCES FOR DEFENSE PURPOSES AND WHICH IS NOT COVERED BY SUB-PARAGRAPHS (1) OR (2) ABOVE, THE COSTS OF MAKING SUCH LAND AVAILABLE WILL BE BORNE BY HER MAJESTY'S GOVERNMENT ON THE UNDERSTANDING THAT THE UNITED STATES GOVERNMENT WILL REFUND SUCH COSTS IN FULL. THE COSTS, AND THE TERMS ON WHICH REPAYMENT IS TO BE MADE, WILL BE THE SUBJECT OF PRIOR AGREEMENT BETWEEN THE APPROPRIATE AUTHORITIES OF THE UNITED STATES GOVERNMENT AND HER MAJESTY'S GOVERNMENT.

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(4) THE COST OF LAND PURCHASED OR LEASED BY THE UNITED STATES GOVERNMENT WILL BE BORNE BY THE UNITED STATES GOVERNMENT. THE US FORCES WILL HAVE THE RIGHT

TO CONCLUDE PRIVATE LEASES ON BEHALF OF THE UNITED STATES GOVERNMENT.

(5) SUBJECT TO THE FINANCIAL LIMITS SPECIFIED IN SUB- PARAGRAPH (2) ABOVE FOR LAND PROVIDED UNDER THAT SUB- PARAGRAPH, HER MAJESTY' S GOVERNMENT, IN MAKING AVAILABLE LAND UNDER SUB- PARAGRAPH (1) AND (2) ABOVE, WILL BEAR ALL THE EXPENSES INCIDENTAL TO MAKING SUCH LAND AVAILABLE, INCLUDING WHERE APPLICABLE:

(A) COMPENSATION TO PERSONS WITH A LEGAL INTEREST IN THE LAND, INCLUDING THE LOSS OF STANDING CROPS;

(B) WAY LEAVE RENT;

(C) IF SO REQUIRED BY THE RELEVANT PERSON WITH AN INTEREST IN THE LAND:

(D) THE PROVISION OF FENCING WHERE PART ONLY OF A PARCEL OF LAND IS MADE AVAILABLE;
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(II) THE PROVISION OF AN ALTERNATIVE MEANS OF

ACCESS TO ADJOINING LAND OR THE PROVISION OF GATES;

(III) THE RE- ALIGNMENT OR RENEWAL OF DRAINS.

(6) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 7 BELOW, LAND MADE AVAILABLE TO A UNIT OF THE US FORCES PURSUANT TO THIS PARAGRAPH WILL REMAIN AVAILABLE FOR SO LONG AS IN THE OPINION OF HER MAJESTY' S GOVERNMENT AND OF THE UNITED STATES GOVERNMENT THE PRESENCE OF SUCH UNIT IN THE UNITED KINGDOM IS CONSIDERED DESIRABLE IN THE INTERESTS OF COMMON DEFENSE.

(7) THE RESIDUAL VALUE OF LAND WHICH CEASES TO BE MADE AVAILABLE TO THE US FORCES BY HER MAJESTY' S GOVERNMENT UNDER THIS PARAGRAPH WILL ACCRUE TO HER MAJESTY' S GOVERNMENT, BUT THE UNITED STATES GOVERNMENT WILL NOT BE OBLIGED TO RE- INSTATE SUCH LAND TO ITS ORIGINAL CONDITION.

(8) IN THIS PARAGRAPH, " DEFENSE PURPOSES" MEANS PURPOSES OF THE US FORCES WHICH ARE DIRECTLY DESIGNED TO FULFIL THE OPERATIONAL MILITARY REQUIREMENTS OF THOSE FORCES IN THE UNITED KINGDOM.

3. USE OF LABOR AND MATERIALS:

(1) EXCEPT AS PROVIDED IN SUB- PARAGRAPH (2) BELOW, THE US FORCES WILL, IN CONSULTATION WITH THE UNITED STATES GOVERNMENT AND HER MAJESTY' S GOVERNMENT, USE FOR THE PERFORMANCE OF CONSTRUCTION AND MAINTENANCE WORK REQUIRED ON LAND MADE AVAILABLE TO THEM IN THE UNITED KINGDOM, THE APPROPRIATE AUTHORITY OF HER MAJESTY' S GOVERNMENT.

(2) WHEN THE US FORCES CONSIDER THAT CIRCUMSTANCES MAKE IT DESIRABLE, THEY MAY WISH TO MAKE THEIR OWN ARRANGEMENTS FOR MAINTENANCE AND CONSTRUCTION, OR FOR

USE OF UNITED STATES LABOR, UNITED STATES MATERIALS AND UNITED STATES EQUIPMENT. IN SUCH AN EVENT, THE UNITED STATES GOVERNMENT WILL ADVISE HER MAJESTY'S GOVERNMENT IN WRITING OF THE INTENTIONS OF THE US FORCES IN THIS RESPECT. IF HER MAJESTY'S GOVERNMENT OBJECTS, THE UNITED STATES GOVERNMENT WILL BE NOTIFIED OF THIS OBJECTION WITHIN FIFTEEN DAYS FROM THE DATE OF RECEIPT OF THE UNITED STATES ADVICE, AND THEREUPON DULY DESIGNATED REPRESENTATIVES OF THE TWO GOVERNMENTS WILL MEET PROMPTLY WITH A VIEW TO RESOLVING THE ISSUE IN QUESTION AS SPEEDILY AS POSSIBLE IN ORDER NOT TO DELAY

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THE CARRYING OUT OF THE CONTEMPLATED DEFENSE WORK.

4. FINANCIAL ARRANGEMENTS:

(1) THE UNITED STATES GOVERNMENT WILL PAY, PURSUANT TO THE REFUND PROCEDURES SET FORTH BELOW, THE ACTUAL COST OF MAJOR OR MINOR CONSTRUCTION OR MAINTENANCE WORK CARRIED OUT FOR THE US FORCES WHEN SUCH WORK IS PERFORMED BY HER MAJESTY'S GOVERNMENT AT THE REQUEST OF THE UNITED STATES GOVERNMENT AND IS ACCEPTED BY THE UNITED STATES GOVERNMENT AS SATISFACTORY. IN ADDITION, WITH EFFECT FROM THE 1ST APRIL 1972, THE UNITED STATES GOVERNMENT WILL PAY THE COST OF DEPARTMENTAL EXPENSES TO THE EXTENT OF 7 AND A HALF PERCENT OF THE ACTUAL COST OF THE SAID CONSTRUCTION OR MAINTENANCE WORK, HER MAJESTY'S GOVERNMENT BEARING THE REMAINING DEPARTMENTAL EXPENSES.

(2) WHERE THE CONSTRUCTION OF A PROJECT IS CANCELLED PURSUANT TO INSTRUCTIONS BY THE UNITED STATES GOVERNMENT PRIOR TO ANY PAYMENT BEING CLAIMED FROM IT, THE UNITED STATES GOVERNMENT WILL BEAR, IN LIEU OF DEPARTMENTAL EXPENSES, THE FULL COSTS INCURRED BY HER MAJESTY'S GOVERNMENT IN THE EMPLOYMENT OF PRIVATE CONSULTANTS AND INDUSTRIAL LABOR.

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(3) (A) CLAIMS FOR COMPENSATION BY ANY PERSON WITH A LEGAL INTEREST IN LAND FOR DAMAGE ARISING FROM THE EXECUTION OF WORKS CARRIED OUT PURSUANT TO SUB- PARAGRAPH (1) ABOVE WILL BE MET BY THE UNITED STATES GOVERNMENT. THESE CLAIMS INCLUDE BUT ARE NOT LIMITED TO (I) COMPENSATION FOR DAMAGE TO LAND AND STANDING CROPS ARISING FROM THE INSTALLATION, MAINTENANCE, REPAIR OR RENEWAL OF CABLES, PIPES, DRAINS, OR OTHER SERVICES ON, IN OR OVER SUCH LAND; (II) COMPENSATION FOR DAMAGE TO ADJOINING OR ADJACENT LAND AND STANDING CROPS ARISING FROM THE EXECUTION OF THE WORK DESCRIBED IN SUB- PARAGRAPH (I) ABOVE;

(B) WITHOUT PREJUDICE TO THE LIABILITY OF THE UNITED STATES GOVERNMENT TO MEET SUCH CLAIMS, THE JUDGE ADVOCATE OF THE THIRD UNITED STATES AIR FORCE WILL BE NOTIFIED OF EACH CLAIM, AND THE CIRCUMSTANCES GIVING RISE TO IT, AS SOON AS PRACTICABLE AFTER IT HAS BEEN MADE.

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(4) THE UNITED STATES GOVERNMENT WILL INDEMNIFY HER MAJESTY' S GOVERNMENT AGAINST ALL DAMAGES, COSTS AND EXPENSES ARISING OUT OF CLAIMS AND JUDGEMENTS MADE AGAINST HER MAJESTY' S GOVERNMENT IN RESPECT OF INJURY (INCLUDING INJURY RESULTING IN DEATH) LOSS OR DAMAGE

ARISING OUT OF ACTS OR OMISSIONS OF CONTRACTORS OR SUB- CONTRACTORS IN THE EXECUTION OF CONSTRUCTION OR MAINTENANCE WORK UNDER THIS MEMORANDUM INCLUDING CLAIMS WHICH ARE SETTLED BY HER MAJESTY' S GOVERNMENT AFTER PRIOR CONSULTATION WITH THE UNITED STATES GOVERNMENT.

(5) REFUNDS FOR MAJOR CONSTRUCTION WORKS SERVICES WILL BE MADE PROMPTLY ON THE BASIS OF INVOICES SUBMITTED BY HER MAJESTY' S GOVERNMENT TO THE UNITED STATES GOVERNMENT, NORMALLY AT 3 MONTHLY INTERVALS, WHICH WILL COVER EXPENDITURE AND DEPARTMENTAL EXPENSES AT 7 AND A HALF PERCENT, INCURRED IN THE PRECEDING 3 MONTHS, IT BEING ACCEPTED THAT THIS PERIOD MAY BE VARIED BY HER MAJESTY' S GOVERNMENT SHOULD CIRCUMSTANCES REQUIRE IT. REFUNDS FOR MINOR WORKS SERVICES AND MAINTENANCE, INCLUDING DEPARTMENTAL EXPENSES AT 7 AND A HALF PERCENT, WILL BE MADE IN ACCORDANCE WITH PROCEDURES AGREED BETWEEN THE UNITED STATES GOVERNMENT AND HER MAJESTY' S GOVERNMENT. SUCH COSTS WILL BE CALCULATED, AND DEPARTMENTAL EXPENSES APPLIED, IN ACCORDANCE WITH HER MAJESTY' S GOVERNMENT' S NORMAL PROCEDURES FOR REPAYMENT SERVICES. THE REASON FOR NON- PAYMENT OF ANY ITEMS IN ANY CLAIM WILL BE GIVEN TO HER MAJESTY' S GOVERNMENT BY THE UNITED STATES GOVERNMENT WITHIN 3 MONTHS OF THE DATE OF SUBMISSION OF THE CLAIM.

(6) IN IMPLEMENTING THE ARRANGEMENTS RECORDED IN THIS MEMORANDUM, IT IS RECOGNISED THAT DUE CONSIDERATION MUST BE GIVEN TO THE FINANCIAL AND BUDGETARY LIMITATIONS AND PROCEDURES OF EACH GOVERNMENT. HER MAJESTY' S GOVERNMENT WILL APPLY TO THE US FORCES PROGRAM THE PRINCIPLES AND PROCEDURES OF FINANCIAL CONTROL WHICH APPLY TO WORKS SERVICES CARRIED OUT FOR THE MINISTRY OF DEFENCE, WITH SUCH ADDITIONAL PROCEDURES AS MAY BE AGREED BETWEEN THE UNITED STATES GOVERNMENT AND HER MAJESTY' S GOVERNMENT. THESE CONTROLS WILL INCLUDE THE EARLIEST PRACTICABLE NOTIFICATION TO THE UNITED STATES GOVERNMENT OF IMPENDING COST OVER- RUNS.

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5. MOVABLE PROPERTY:

OWNERSHIP OF ALL MOVABLE PROPERTY FURNISHED BY THE UNITED STATES GOVERNMENT, OR ITS CONTRACTORS, OR SUB- CONTRACTORS, IN CONNECTION WITH THE CONSTRUCTION, OPERATION OR MAINTENANCE OF FACILITIES IN THE UNITED KINGDOM USED BY THE US FORCES WILL REMAIN WITH THE UNITED STATES GOVERNMENT OR ITS CONTRACTORS, OR SUB- CONTRACTORS, AS THE CASE MAY BE. THE OWNERSHIP OF MOVABLE PROPERTY ACQUIRED BY THE UNITED STATES GOVERNMENT WILL REMAIN

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PROPERTY COVEREXBY THIS PARAGRAPH MAY BE IMPORTED INTO
OR REMOVED FROM THE UNITED KINGDOM FREE OF CUSTOMS
DUTY. HOWEVER, SUCH PROPERTY WILL NOT BE DISPOSED OF
WITHIN THE UNITED KINGDOM UNLESS CONSENT HAS BEEN GIVEN
IN WRITING BY HER MAJESTY' S GOVERNMENT AND ANY CUSTOMS
CHARGES PAYABLE HAVE BEEN PAID.

6. MISCELLANEOUS PROVISIONS:

(1) SUBJECT TO THE PROVISIONS OF SUB- PARAGRAPH (3)

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NOTE BY OC/ T:# CORRECTION TO FOLLOW. PARAGRAPH 5,
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BELOW, AND THE NEW RATE OF DEPARTMENTAL EXPENSES IN
PARAGRAPH 4(1) ABOVE, ALL ARRANGEMENTS OR AGREEMENTS
MADE BETWEEN THE UNITED STATES AND THE UNITED KINGDOM,
OR ON THEIR BEHALF, WILL REMAIN IN FORCE, AND IN THE

EVENT OF ANY CONFLICT BETWEEN THEIR TERMS AND THE TERMS OF THIS MEMORANDUM, THE FORMER WILL PREVAIL.

(2) THE ADMINISTRATION OF THE ARRANGEMENTS RECORDED IN THIS MEMORANDUM WILL BE THE JOINT RESPONSIBILITY OF THE UNITED STATES GOVERNMENT AND HER MAJESTY' S GOVERNMENT. TO THIS END, THE APPROPRIATE AUTHORITIES OF THE TWO GOVERNMENTS MAY ENTER INTO IMPLEMENTING ARRANGEMENTS, AS NEEDED.

(3) AT (L9) THE UNEXPENDED BALANCE OF THE UNITED KINGDOM CAPITAL CONTRIBUTION OF 22.5 MILLION POUNDS TO THE US/ UK COST SHARING ARRANGEMENTS OF 9 TH SEPTEMBER, 1953, WAS POUNDS (). THIS SUM WILL BE AVAILABLE TO THE US FORCES UNTIL EXPENDED OR UNTIL THE
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ARRANGEMENTS RECORDED IN THIS MEMORANDUM ARE TERMINATED IN ACCORDANCE WITH ITS PROVISIONS, WHICHEVER HAPPENS FIRST. IN ALL OTHER RESPECTS THE 1953 COST- SHARING ARRANGEMENTS WILL TERMINATE ON THE DATE THE ARRANGEMENTS RECORDED IN THIS MEMORANDUM COME INTO EFFECT.

(4) SUBJECT TO THE PROVISIONS OF SUB- PARAGRAPH (1) ABOVE, AND EXCEPT AS MAY BE MUTUALLY AGREED OTHERWISE, THIS MEMORANDUM IS APPLICABLE TO ALL LAND IN THE UNITED KINGDOM MADE AVAILABLE BY HER MAJESTY' S GOVERNMENT IN PEACE OR WAR TO THE US FORCES.

(5) A LISTING OF AGREED UNITED STATES ACTIVITIES TO WHICH THIS MEMORANDUM APPLIES WILL BE SUBMITTED ANNUALLY TO HER MAJESTY' S GOVERNMENT BY THE UNITED STATES GOVERNMENT.

7. DURATION:

SUBJECT TO PARAGRAPH 4(1) ABOVE, THE ARRANGEMENTS RECORDED IN THIS MEMORANDUM WILL COME INTO EFFECT AS OF () AND WILL REMAIN IN EFFECT FOR TEN YEARS FROM THAT DATE. THEREAFTER EITHER GOVERNMENT MAY TERMINATE THE ARRANGEMENTS BY GIVING TWELVE MONTHS' WRITTEN NOTICE OF ITS INTENTION TO TERMINATE TO THE OTHER GOVERNMENT.

THE FOREGOING MEMORANDUM REPRESENTS WHAT I UNDERSTAND TO BE THE OUTCOME OF THE DISCUSSIONS BETWEEN OUR RESPECTIVE REPRESENTATIVES. I THINK IT IS ACCEPTED THAT THERE IS NO NEED FOR THE ARRANGEMENTS RECORDED IN THE MEMORANDUM TO BE THE SUBJECT OF A FORMAL AGREEMENT BETWEEN OUR TWO GOVERNMENTS. ACCORDINGLY, I WOULD SUGGEST THAT IT WOULD BE SUFFICIENT IF YOU CONFIRMED

THAT THE ARRANGEMENTS RECORDED IN THE MEMORANDUM
CORRECTLY SET OUT THE UNDERSTANDINGS OF OUR TWO GOVERN-
MENTS IN THIS MATTER. END QUOTE

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